

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

CR. NO. 01-10010-01

-vs-

JUDGE LITTLE

LIONEL RICHARD, JR.

JUDGMENT

Before the court is a Motion to Eliminate Enhancements and Reduce Sentence filed by Lionel Richard, Jr. (“Richard”) on 22 November 2005 [Doc. #178] seeking “review of his case and a sentence reduction, eliminating the enhancements in his case.” The government filed a response on 2 December 2005 [#181].

Richard previously filed a motion to vacate his sentence under 28 U.S.C. § 2255 on 13 July 2004 [#159]. The court denied this motion on 20 April 2005 [#173]. While the present motion is not styled as a motion to vacate under 28 U.S.C. § 2255, it is essentially a motion seeking the same relief and as such shall be treated as a successive motion to vacate under 28 U.S.C. § 2255. The district court does not have jurisdiction to consider a successive 28 U.S.C. § 2255 motion without authorization from the Court of Appeals. See 28 U.S.C. § 2244(b)(3)(a). “Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” Id.

Upon receiving a successive motion under 28 U.S.C. § 2255, the district court may transfer the motion to the appropriate court of appeals for certification. See Henderson v. Haro, 282 F.3d 862, 863 (5th Cir. 2002) (“The district court construed this claim as a § 2255 petition and transferred it to this court for certification.”). As such, this motion is transferred to the Court of Appeals for the Fifth Circuit for certification.

Alexandria, Louisiana

30 January 2006

A handwritten signature in black ink, appearing to read 'F.A. Little, Jr.', with a stylized, cursive script.

F.A. LITTLE, JR.
UNITED STATES DISTRICT JUDGE